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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

SEALED

FILED IN UNITED STATES DISTRICT  
COURT, DISTRICT OF UTAH

DEC 07 2011

D. MARK JONES, CLERK

DEPUTY CLERK

<p>UNITED STATES OF AMERICA,  Plaintiff,  v.  ROBERT L. HOLLOWAY  Defendant.</p>	<p>Case: 2:11-cr-00984 Assigned To : Benson, Dee Assign. Date : 12/07/2011 Description: USA v.  INDICTMENT  Vio. 18 U.S.C. § 1343 (Wire Fraud); 26 U.S.C. § 7206(1) (Tax Evasion)</p>
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The Grand Jury charges:

**Relevant Entities**

At all times relevant to this indictment:

1. US Ventures, LC ("US Ventures") was a limited liability company organized under the laws of Utah, formed in or around April 1999 and controlled by Defendant HOLLOWAY. US Ventures' principal place of business was located in Salt Lake City, Utah.

US Ventures purported to be a commodities investment fund whose strategy was based upon proprietary trading software.

2. Defendant ROBERT L. HOLLOWAY was the Chief Executive Officer, Corporate Secretary, Manager, Managing Partner, Member, Program manager, Resident Agent, fifty percent shareholder, trading agent of US Ventures, and controlled its day to day operations.

### **The Scheme and Artifice to Defraud**

#### **Statutory Allegation**

3. Beginning in at least in or about May 2005 and until on or about April 11, 2007, in the Central Division of the District of Utah and elsewhere, Defendant HOLLOWAY devised and intended to devise a scheme and artifice to defraud and for obtaining money by means of false and fraudulent pretenses, representations, and promises. In execution of the scheme to defraud, Defendant HOLLOWAY used the United States mails, interstate wire transmissions, and the facilities and means of interstate commerce.

#### **Overview of the Fraudulent Scheme**

4. From in or about May 2005 through in or about April 2007, Defendant HOLLOWAY defrauded investors in US Ventures of more than \$10 million through a series of false and materially misleading statements which included: (1) misrepresenting the trading returns of US Ventures' proprietary trading software, and (2) disseminating to investors fabricated account statements to conceal US Ventures' actual trading losses. In truth and in fact, as Defendant HOLLOWAY well knew, US Ventures experienced trading losses in excess of \$10 million during its operation and investors who received "distributions" from US Ventures were in fact receiving funds which Defendant HOLLOWAY had solicited from new investors.

## The Scheme

5. It was a part of the scheme and artifice to defraud that Defendant HOLLOWAY distributed various US Ventures marketing materials to investors, both directly and indirectly, including informational brochures and his personal resume. Among other things, Defendant HOLLOWAY falsely represented in these materials that:

- a. US Ventures used proprietary automatic trade filling and technical analysis software to profit from the futures market and that this proprietary trading software was consistently profitable;
- b. US Ventures, in less than two years, had grown to more than \$32 million under management with “astonishing” average returns of 0.8 percent per trading day;
- c. Investors’ principal was safe and that US Ventures guaranteed the return of their principal and profits; and
- d. US Ventures would retain thirty percent of investors’ profits as a management fee.

6. It was further a part of the scheme and artifice to defraud that Defendant HOLLOWAY communicated his misrepresentations regarding his scheme, both directly and indirectly, to investors and potential investors through various means, including electronic mail, phone calls, and written solicitation materials. Defendant HOLLOWAY made such misrepresentations to colleagues, intermediaries and associates with the knowledge that such information would be disseminated to other investors and potential investors.

7. It was further a part of the scheme and artifice to defraud that Defendant HOLLOWAY accepted money from individuals and other entities through US Ventures. US Ventures received investment capital largely through four separate entities: Investment Entities

One, Two, Three, and Four (collectively, the "Investment Entities"). All of these entities recruited individual investors to pool their money for investment in US Ventures. Investment Entity One, managed by Entity One Manager, was by far the largest investor into US Ventures. Investment Entity One sent approximately \$25 million in investor funds to US Ventures.

8. It was further a part of the scheme and artifice to defraud that between in or about October 2005 and on or about March 30, 2007, Defendant HOLLOWAY and US Ventures generated reports distributed to individual investors (the "US Ventures Reports"). The US Ventures Reports purported to disclose US Ventures' trading performance and returns. In the case of individual investors who had invested through Investment Entity One, Defendant HOLLOWAY would distribute and cause to be distributed the US Ventures Report to Entity One Manager who then in turn distributed, directly and indirectly, the US Ventures Reports to individual Investment Entity One investors. The US Ventures Reports purported "daily returns" of between 0.0% to 1.15%, and never disclosed a single loss.

9. In truth and in fact, as Defendant HOLLOWAY well knew, the US Ventures Reports were false and misleading. Between in or about October 2005 and March 30, 2007, US Ventures lost more than \$10 million in trading. The "profit" figures reported on the US Ventures Reports were entirely fabricated. At no time during the operation of the scheme did US Ventures make a yearly profit.

10. It was further a part of the scheme and artifice to defraud that in order to convince existing and potential investors that US Ventures was profitable, Defendant HOLLOWAY made payments to certain investors which he represented were trading profits. In fact, these "profits" consisted of funds solicited from new investors. In this way, Defendant HOLLOWAY created

the false impression that his enterprise was profitable, that the investments were safe and secure, and that returns were being paid on investors' principal.

11. It was further a part of the scheme and artifice to defraud that Defendant HOLLOWAY used investor funds for purposes not disclosed to the investors and potential investors of US Ventures, including supporting Defendant HOLLOWAY's then-wife's eBay business and financing the personal expenses and lifestyle of Defendant HOLLOWAY and his family.

12. It was further a part of the scheme and artifice to defraud that instead of taking as a management fee thirty percent of investors' profits, Defendant HOLLOWAY instead transferred thirty percent of investors' funds at the time of their investment and transferred those funds to an account for personal expenses. In 2006, Defendant HOLLOWAY transferred more than \$1.2 million in investors' funds to this account for personal expenses.

**Counts 1 through 4**  
**18 U.S.C. § 1343**  
**(Wire Fraud)**

13. The factual allegations of paragraphs 1 through 12 are incorporated by this reference as though fully set forth herein.

14. On or about the dates listed below, in the Central Division of the District of Utah and elsewhere,

**ROBERT L. HOLLOWAY,**

Defendant herein, having devised and intended to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, for the purpose of executing said scheme and artifice to defraud, did cause to be

transmitted by means of wire communication certain writings, signs and signals, each such use of wire communication being a separate count of this Indictment:

COUNT	DATE	INTERSTATE USE OF WIRES	DESCRIPTION
1	February 1, 2007	\$200,000 wire transfer	Wire transfer from US Ventures trading account in Illinois to US Ventures bank account in Utah to make payment to Investment Entity Two
2	February 5, 2007	\$200,000 wire transfer	Wire transfer from US Ventures trading account in Illinois to US Ventures bank account in Utah to make payment to Investment Entity Three
3	February 9, 2007	\$500,000 Wire Transfer	Wire transfer from US Ventures bank account in Utah to Investment Entity One bank account in Texas to make payment to Investment Entity One
4	February 13, 2007	\$500,000 Wire Transfer	Wire transfer from US Ventures bank account in Utah to Investment Entity One bank account in Texas to make payment to Investment Entity One

all in violation of 18 U.S.C. § 1343 and 18 U.S.C. § 2(b).

**Count 5**  
**26 U.S.C. § 7206(1)**  
**(Making and Subscribing a False Income Tax Return)**

15. The factual allegations of paragraphs 1 through 12 are incorporated by this reference as though fully set forth herein.

16. On or about February 13, 2008, in the Central Division of the District of Utah,

**ROBERT L. HOLLOWAY,**

Defendant herein, did willfully make and subscribe an Individual Income Tax Return (Form 1040) for the calendar year 2006, which was verified by a written declaration that it was made

under the penalties of perjury and which he did not believe to be true and correct as to every material matter. That Individual Income Tax Return for 2006, which was prepared and signed in the District of Utah and was filed with the Internal Revenue Service in February 2008, stated that the gross receipts for Defendant HOLLOWAY's business in 2006 were \$27,500, whereas, as he then and there knew and believed, Defendant HOLLOWAY directed that over \$1.2 million be deposited into a US Ventures business account used for personal use during 2006; all in violation of 26 U.S.C. § 7206(1).

### **NOTICE OF INTENTION TO SEEK CRIMINAL FORFEITURE**

As a result of committing the felony offense alleged in Counts 1 through 4 of this Indictment, which is punishable by imprisonment for more than one year, the above-named defendant shall forfeit to the United States pursuant to 18 U.S.C. § 981(a)(c) any and all property constituting or derived from any proceeds the defendant obtained directly or indirectly as a result of the felony offenses and any and all property, real and personal, used or intended to be used in any manner or part to commit and to facilitate the commission of the violations of 18 U.S.C. § 1343, as alleged in the counts listed in this Notice, and any property traceable thereto, including but not limited to:

- MONEY JUDGMENT in an amount over one million dollars (\$1,000,000.00), representing the approximate value of proceeds obtained by the defendant in connection with the above-referenced offense.

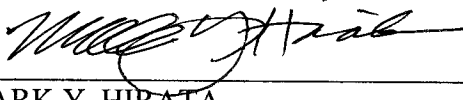
A TRUE BILL:

  
FOREPERSON OF THE GRAND JURY



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THOMAS B.W. HALL  
Trial Attorney



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MARK Y. HIRATA  
Assistant United States Attorney



**DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT**

BY:  COMPLAINT  INFORMATION  INDICTMENT

Name of District Court, and/or Judge/Magistrate Location (City)

CENTRAL- DISTRICT OF UTAH

**OFFENSE CHARGED**  
WIRE FRAUD; TAX EVASION

- Petty
- Minor
- Misdemeanor
- Felony

Place of offense  
Salt Lake County  
Central Division  
District of Utah

U.S.C. Citation  
18: 1343;  
26: 7206(1)

DEFENDANT - U.S. vs.

ROBERT L. HOLLOWAY

Address {

Birth Date

- Male  Alien
- Female (if applicable)

(Optional unless a juvenile)

**PROCEEDING**

Name of Complainant Agency, or Person (& Title, if any)

Steve Whittle, FBI

person is awaiting trial in another Federal or State Court, give name of court

this person/proceeding is transferred from another district per (circle one) FRCrP 20, 21 or 40. Show District

this is a reprosecution of charges previously dismissed which were dismissed on motion of:  
 U.S. Att'y  Defense

this prosecution relates to a pending case involving this same defendant

prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

SHOW DOCKET NO.

MAGISTRATE CASE NO.

Name and Office of Person Furnishing Information on THIS FORM

David B. Barlow

U.S. Att'y  Other U.S. Agency

Name of Asst. U.S. Att'y (if assigned)

Thomas Hall, SAUSA

**IS NOT IN CUSTODY**

- 1)  Has not been arrested, pending outcome this proceeding. If not detained give date any prior summons was served on above charges
- 2)  Is a Fugitive
- 3)  Is on Bail or Release from (show District)

**IS IN CUSTODY**

- 4)  On this charge
- 5)  On another conviction }  Fed'l  State
- 6)  Awaiting trial on other charges }  
If answer to (6) is "Yes", show name of institution

Has detainer been filed?  Yes  No

If "Yes" give date filed

Mo. Day Year

DATE OF ARREST

Or... if Arresting Agency & Warrant were not Federal

DATE TRANSFERRED TO U.S. CUSTODY

Mo. Day Year

This report amends AO 257 previously submitted

**ADDITIONAL INFORMATION OR COMMENTS**

Please issue a Warrant.

FILED IN UNITED STATES DISTRICT COURT, DISTRICT OF UTAH

DEC 07 2011

D. MARK JONES, CLERK

BY DEPUTY CLERK

SEALED